



4000-01-U

DEPARTMENT OF EDUCATION

Tribally Controlled Postsecondary Career and Technical Institutions Program; Final Waivers and Extension of Project Period

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice.

Overview Information:

Final Waivers and Extension of Project Period for the Tribally Controlled Postsecondary Career and Technical Institutions Program

Catalog of Federal Domestic Assistance (CFDA) Number: 84.245A.

SUMMARY: For 60-month projects funded in fiscal year (FY) 2007 under the Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP), the Secretary waives 34 CFR 75.250 and 75.261(c)(2) in order to extend the project period of these current TCPCTIP grantees through FY 2013, or longer, if Congress continues to appropriate funds under the existing TCPCTIP program authority. This action will enable the two current TCPCTIP grantees to seek continuation awards in FY 2012 for their

current projects, and we will not announce a new TCPCTIP competition in FY 2012.

DATES: This notice of final waivers and extension of project period is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Gwen Washington.

Telephone: (202) 245-7790 or by e-mail:  
gwen.washington@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

On February 16, 2012, we published a notice in the Federal Register (77 FR 9218) (February 2012 notice) proposing to waive 34 CFR 75.250 and 75.261(c)(2) as they apply to TCPCTIP. These regulations generally limit project periods to 60 months and restrict project period extensions involving the obligation of additional Federal funds. In that notice, the Secretary also proposed (1) to extend the project period for current TCPCTIP grantees through FY 2013, or longer if Congress continues to appropriate funds under the existing program authority; and (2) to not announce a new TCPCTIP competition in FY 2012.

Public Comment:

In the February 2012 notice for TCPCTIP, the Secretary invited comments about the potential effect the proposed waivers and extension would have on TCPCTIP and on applicants that may be eligible to apply for grant awards under any new TCPCTIP notice inviting applications, should there be one. We did not receive any comments.

#### Background

TCPCTIP funds are used by TCPCTIP grantees to provide career and technical education programs as authorized by section 117 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2327). The two current TCPCTIP grantees were selected based on our May 15, 2007, TCPCTIP Federal Register notice inviting applications (72 FR 27297) (May 2007 notice). The project period for the two TCPCTIP grantees is scheduled to end in FY 2012. For these TCPCTIP projects, the Secretary waives the requirements of 34 CFR 75.250 and 75.261(c)(2), which limit project periods to 60 months and restrict project period extensions that involve the obligation of additional Federal funds. The Secretary also extends the current project period for the two current TCPCTIP grantees through FY 2013, or longer if Congress continues to appropriate funds under the existing program authority. This will

allow the two current TCPCTIP grantees to request continuation awards in FY 2012.

The Secretary's final waiver of 34 CFR 75.250 and 75.261(c)(2) and project period extension means that: (1) current TCPCTIP grantees may request TCPCTIP continuation awards in FY 2012 for project periods through FY 2013, and may be able to do so in future years, if Congress continues to appropriate funds under the existing program authority; (2) we will not announce a new TCPCTIP competition or make new awards in FY 2012, or subsequent years if the existing program authority remains in effect; (3) the May 2007 notice will continue to govern current projects during the extension year or years; and (4) the two applications approved under the May 2007 notice will govern TCPCTIP continuation activities.

The May 2007 notice (1) established a project period of up to 60 months and reiterated that funding for multi-year awards would be dependent on a grantee meeting the requirements of 34 CFR 75.253 (continuation of a multi-year project after the first budget period); (2) explained the requirements of the program; (3) described the evaluation and reporting requirements; and (4) established the Government Performance and Results Act (GPRA) indicators for TCPCTIP.

With these waivers and extension of the project period, the current two TCPCTIP grantees may request continuation awards for FY 2013. We will consider continuation award requests under the current TCPCTIP statutory authority, subject to the requirements of 34 CFR 75.253, including the requirement that each grantee demonstrate that it is making substantial progress performing its TCPCTIP grant activities based on the requirements in our May 2007 notice inviting applications.

We will make decisions regarding continuation awards based on information provided in grantee requests for continuation awards, including information provided in program narratives, budgets and budget narratives, and performance reports. Any activities to be carried out during the continuation year must be consistent with, or be a logical extension of the scope, goals, and objectives of, each grantee's application as approved in the 2007 TCPCTIP competition.

#### Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). During the 30-day public comment period on the notice of proposed waivers and

extension of project period, no comments were submitted. Therefore, except for minor editorial and technical revisions, there are no differences between the proposed and final notices of waivers and extension of the project period for TCPCTIP. In addition, given the fact that the additional period of funding is only for a 12-month period, or longer if Congress continues to appropriate funds for TCPCTIP under the existing program authority, and to be able to make timely continuation grants to the two entities affected, the Secretary has determined that a delayed effective date is unnecessary and contrary to the public interest.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these waivers and extension will not have a significant economic impact on a substantial number of small entities.

The small entities that will be affected by these waivers and extension are the two current TCPCTIP grantees.

The Secretary certifies that these waivers and extension will not have a significant economic impact on these TCPCTIP entities because these waivers and extension impose minimal compliance costs to extend projects already in existence, and the activities required to support the additional year or years of funding will not impose

additional regulatory burdens or require unnecessary Federal supervision. Furthermore, the costs of carrying out these activities could be paid for with program funds.

#### Paperwork Reduction Act of 1995

This notice of final waivers and extension does not contain any information collection requirements.

#### Intergovernmental Review

The TCPCTIP is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

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Program Authority: 20 U.S.C. 2327.

Dated: May 18, 2012

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Johan Uvin,  
Delegated Authority to Perform the  
Functions and Duties of the  
Assistant Secretary for Vocational  
and Adult Education.

[FR Doc. 2012-12542 Filed 05/22/2012 at 8:45 am;

Publication Date: 05/23/2012]